

**SENATE AMENDMENT 7,
TO SENATE AMENDMENT 1,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133**

June 30, 1999 – Offered by Senators WELCH and DARLING.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 196, line 23: delete lines 23 and 24.

3 **2.** Page 197, line 2: delete lines 2 to 5 and substitute:

4 “733d. Page 826, line 13: delete lines 13 to 16 and substitute:

5 “71.04 **(4)** (a) For taxable years beginning before January 1, 2001, an
6 apportionment fraction composed of a sales factor under sub. (7) representing 50%
7 of the fraction, a property factor under sub. (5) representing 25% of the fraction and
8 a payroll factor under sub. (6) representing 25% of the fraction.

9 **SECTION 1675bb.** 71.04 (4) (am) of the statutes is created to read:

10 71.04 **(4)** (am) For taxable years beginning after December 31, 2000, and before
11 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (7)

1 representing 63% of the fraction, a property factor under sub. (5) representing 18.5%
2 of the fraction and a payroll factor under sub. (6) representing 18.5% of the fraction.”.

3 733e. Page 832, line 13: after that line insert:

4 “**SECTION 1682nb.** 71.04 (8) (b) of the statutes is amended to read:

5 71.04 **(8)** (b) 1. “Public utility”, as used in this section, means any business
6 entity which owns or operates any plant, equipment, property, franchise, or license
7 for the transmission of communications or the production, transmission, sale,
8 delivery, or furnishing of electricity, water or steam, the rates of charges for goods or
9 services of which have been established or approved by a federal, state or local
10 government or governmental agency.

11 2. “Public utility” also means, in this section, any business entity providing
12 service to the public and engaged in the transportation of goods and persons for hire,
13 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges
14 for services have been established or approved by a federal, state or local government
15 or governmental agency.”.

16 733g. Page 832, line 21: after “(9d)” insert “and the net income of public utilities,
17 as defined in par. (b) 1., shall be apportioned under sub. (4).”.

18 **3.** Page 199, line 10: delete that line.

19 **4.** Page 202, line 24: delete that line.

20 **5.** Page 203, line 16: delete that line.

21 **6.** Page 203, line 18: delete lines 18 to 20 and substitute:

22 “758b. Page 854, line 11: after “gain” insert “and includes issuing credit, debit
23 or travel and entertainment cards to customers in this state”.”.

24 **7.** Page 204, line 7: after that line insert:

1 “760d. Page 873, line 21: after that line insert:

2 “**SECTION 1722yd.** 71.23 (2) of the statutes is amended to read:

3 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise or doing
4 business in this state in a corporate capacity, except as provided under sub. (3), every
5 domestic or foreign corporation, except corporations specified in s. 71.26 (1), and
6 every nuclear decommissioning trust or reserve fund shall annually pay a franchise
7 tax according to or measured by its entire Wisconsin net income of the preceding
8 taxable year at the rate set forth in s. 71.27 (2). In addition, except as provided in
9 sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this state and
10 a nuclear decommissioning trust or reserve fund that is terminated shall pay a
11 special franchise tax according to or measured by its entire Wisconsin net income for
12 the taxable year during which the corporation ceases doing business in this state or
13 the nuclear decommissioning trust or reserve fund is terminated at the rates under
14 s. 71.27 (2). Every corporation organized under the laws of this state or that derives
15 income from sources within this state or from activities that are attributable to this
16 state shall be deemed to be residing within this state for the purposes of this
17 franchise tax. All provisions of this chapter and ch. 73 relating to income taxation
18 of corporations shall apply to franchise taxes imposed under this subsection, unless
19 the context requires otherwise. The tax imposed by this subsection on national
20 banking associations shall be in lieu of all taxes imposed by this state on national
21 banking associations to the extent it is not permissible to tax such associations under
22 federal law.

23 **SECTION 1722yf.** 71.25 (5) (a) (intro.) of the statutes is amended to read:

24 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),
25 corporations engaged in business both within and without this state are subject to

1 apportionment. Income, gain or loss from the sources listed in this paragraph is
2 presumed apportionable. Apportionable income includes all income or loss of
3 corporations, other than nonapportionable income as specified in par. (b), including,
4 but not limited to, income, gain or loss from the following sources:

5 **SECTION 1722ym.** 71.25 (5) (a) 9. of the statutes is amended to read:

6 71.25 (5) (a) 9. Interest and dividends if the operations of the payer are unitary
7 ~~with those of the payee, or if those operations are not unitary but the investment~~
8 ~~activity from which that income is derived is an integral part of a unitary business~~
9 ~~and the payer and payee are neither affiliates nor related as parent company and~~
10 ~~subsidiary. In this subdivision, “investment activity” includes decision making~~
11 ~~relating to the purchase and sale of stocks and other securities, investing surplus~~
12 ~~funds and the management and record keeping associated with corporate~~
13 ~~investments, not including activities of a broker or other agent in maintaining an~~
14 ~~investment portfolio.~~

15 **SECTION 1722yn.** 71.25 (5) (a) 10. of the statutes is amended to read:

16 71.25 (5) (a) 10. Sale of intangible assets if the operations of the company in
17 ~~which the investment was made were unitary with those of the investing company,~~
18 ~~or if those operations were not unitary but the investment activity from which that~~
19 ~~gain or loss was derived is an integral part of a unitary business and the companies~~
20 ~~were neither affiliates nor related as parent company and subsidiary. In this~~
21 ~~subdivision, “investment activity” has the meaning given under subd. 9.”.~~

22 **8.** Page 204, line 8: delete lines 8 and 9 and substitute:

1 “760e. Page 874, line 9: delete that line and substitute “businesses except
2 financial organizations, public utilities, telecommunications companies, railroads,
3 sleeping car”.

4 760f. Page 874, line 20: delete lines 20 to 23 and substitute:

5 “71.25 (6) (a) For taxable years beginning before January 1, 2001, an
6 apportionment fraction composed of a sales factor under sub. (9) representing 50%
7 of the fraction, a property factor under sub. (7) representing 25% of the fraction and
8 a payroll factor under sub. (8) representing 25% of the fraction.

9 **SECTION 1729bb.** 71.25 (6) (am) of the statutes is created to read:

10 71.25 (6) (am) For taxable years beginning after December 31, 2000, and before
11 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (9)
12 representing 63% of the fraction, a property factor under sub. (7) representing 18.5%
13 of the fraction and a payroll factor under sub. (8) representing 18.5% of the fraction.”.

14 760g. Page 887, line 20: after that line insert:

15 **“SECTION 1738nb.** 71.25 (10) (b) of the statutes is amended to read:

16 71.25 (10) (b) 1. In this section, “public utility” means any business entity
17 which owns or operates any plant, equipment, property, franchise, or license for the
18 transmission of communications or the production, transmission, sale, delivery, or
19 furnishing of electricity, water or steam the rates of charges for goods or services of
20 which have been established or approved by a federal, state or local government or
21 governmental agency. **“Public utility”**

22 2. In this section, **“public utility”** also means any business entity providing
23 service to the public and engaged in the transportation of goods and persons for hire,
24 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges

1 for services have been established or approved by a federal, state or local government
2 or governmental agency.”.

3 760h. Page 888, line 3: after “(9d)” insert “and the net income of public utilities,
4 as defined in par. (b) 1., shall be apportioned under sub. (6).”.”.

5 **9.** Page 204, line 21: after that line insert:

6 “763m. Page 910, line 18: after that line insert:

7 “**SECTION 7140n.** 71.26 (3) (L) of the statutes is amended to read:

8 71.26 **(3)** (L) Section 265 is excluded and replaced by the rule that any amount
9 otherwise deductible under this chapter that is directly or indirectly related to
10 income wholly exempt from taxes imposed by this chapter or to losses from the sale
11 or other disposition of assets the gain from which would be exempt under this
12 paragraph if the assets were sold or otherwise disposed of at a gain is not deductible.
13 In this paragraph, “wholly exempt income”, for corporations subject to franchise or
14 income taxes, ~~includes amounts received from affiliated or subsidiary corporations~~
15 ~~for interest, dividends or capital gains that, because of the degree of common~~
16 ~~ownership, control or management between the payor and payee,~~ are not subject to
17 taxes under this chapter. In this paragraph, “wholly exempt income”, for
18 corporations subject to income taxation under this chapter, also includes interest on
19 obligations of the United States. In this paragraph, “wholly exempt income” does not
20 include income excludable, not recognized, exempt or deductible under specific
21 provisions of this chapter. If any expense or amount otherwise deductible is
22 indirectly related both to wholly exempt income or loss and to other income or loss,
23 a reasonable proportion of the expense or amount shall be allocated to each type of
24 income or loss, in light of all the facts and circumstances.”.”.

